

(4) WHIPPOORWILL ASSOCIATES, INC.
11 Martine Avenue, 8th Floor
White Plains, New York 10606

- (a) Maximum Potential Percentage of ACG's Common Stock: 16.4-17.1%²³
- (b) State of incorporation: Delaware
- (c) Telephone: 914-683-1002
- (d) Facsimile: 914-683-1242
- (e) Contact person: David Strumwasser
- (f) Principal Business: Investment Advisor
- (g) Each FCC regulated CMRS business in which Whippoorwill Associates, Inc. holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

(4a) Attributable Interest Holders in Whippoorwill Associates, Inc.

Shelley F. Greenhaus
11 Martine Avenue, 8th Floor
White Plains, New York 10606

- (a) Citizenship: United States
- (b) Telephone: 914-683-1002
- (c) Facsimile: 914-683-1242
- (d) Principal Business: Money Management Services
- (e) Each FCC regulated CMRS business in which Shelley F. Greenhaus holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

²³ Both Whippoorwill Associates, Inc. and Whippoorwill Partners, L.P. own an interest in ACG as a General Partner and/or Fund Manager of numerous investment funds and accounts which will be the owners of record of ACG's Common Stock but which do not individually hold an attributable interest in ACG. The percentage listed represents Whippoorwill Associates, Inc.'s and Whippoorwill Partners, L.P.'s combined, maximum potential attributable percentage of ACG's common stock using the FCC attribution multiplier.

Shelby S. Werner
11 Martine Avenue, 8th Floor
White Plains, New York 10606

- (a) Citizenship: United States
- (b) Telephone: 914-683-1002
- (c) Facsimile: 914-683-1242
- (d) Principal Business: Money Management Services
- (e) Each FCC regulated CMRS business in which Shelby S. Werner holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

Pamela M. Lawrence
11 Martine Avenue, 8th Floor
White Plains, New York 10606

- (a) Citizenship: United States
- (b) Telephone: 914-683-1002
- (c) Facsimile: 914-683-1242
- (d) Principal Business: Money Management Services
- (e) Each FCC regulated CMRS business in which Pamela M. Lawrence holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

David A. Strumwasser
11 Martine Avenue, 8th Floor
White Plains, New York 10606

- (a) Citizenship: United States
- (b) Telephone: 914-683-1002
- (c) Facsimile: 914-683-1242
- (d) Principal Business: Money Management Services
- (e) Each FCC regulated CMRS business in which David A. Strumwasser holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

5. WHIPPOORWILL PARTNERS, L.P.
11 Martine Avenue, 8th Floor
White Plains, New York 10606

- (a) Maximum Potential Percentage of ACG's Common Stock: 16.4-17.1%²⁴
- (b) State of incorporation: Delaware
- (c) Telephone: 914-683-1002
- (d) Facsimile: 914-683-1242
- (e) Contact person: David Strumwasser
- (f) Principal Business: Investment
- (g) Each FCC regulated CMRS business in which Whippoorwill Partners, L.P. holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

(5a) Attributable Interest Holders in Whippoorwill Partners, L.P.

Greenhaus Children's Trust
11 Martine Avenue, 8th Floor
White Plains, New York 10606

- (a) State of Creation: New York
- (b) Telephone: 914-683-1002
- (c) Facsimile: 914-683-1242
- (d) Principal Business: Family Trust
- (e) Each FCC regulated CMRS business in which the Greenhaus Children's Trust holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

Shelley F. Greenhaus
11 Martine Avenue, 8th Floor

²⁴ Both Whippoorwill Associates, Inc. and Whippoorwill Partners, L.P. own an interest in ACG as a General Partner and/or Fund Manager of numerous investment funds and accounts which will be the owners of record of ACG's Common Stock but which do not individually hold an attributable interest in ACG. The percentage listed represents Whippoorwill Associates, Inc.'s and Whippoorwill Partners, L.P.'s combined, maximum potential attributable percentage of ACG's common stock using the FCC attribution multiplier.

White Plains, New York 10606

- (a) Citizenship: United States
- (b) Telephone: 914-683-1002
- (c) Facsimile: 914-683-1242
- (d) Principal Business: Money Management Services
- (e) Each FCC regulated CMRS business in which Shelley F. Greenhaus holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

Shelby S. Werner
11 Martine Avenue, 8th Floor
White Plains, New York 10606

- (a) Citizenship: United States
- (b) Telephone: 914-683-1002
- (c) Facsimile: 914-683-1242
- (d) Principal Business: Money Management Services
- (e) Each FCC regulated CMRS business in which Shelby S. Werner holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

Pamela M. Lawrence
11 Martine Avenue, 8th Floor
White Plains, New York 10606

- (a) Citizenship: United States
- (b) Telephone: 914-683-1002
- (c) Facsimile: 914-683-1242
- (d) Principal Business: Money Management Services
- (e) Each FCC regulated CMRS business in which Pamela M. Lawrence holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

David A. Strumwasser
11 Martine Avenue, 8th Floor
White Plains, New York 10606

- (a) Citizenship: United States
- (b) Telephone: 914-683-1002
- (c) Facsimile: 914-683-1242
- (d) Principal Business: Money Management Services
- (e) Each FCC regulated CMRS business in which David A. Strumwasser holds, directly or indirectly, 5% or more of the stock, warrants, options or debt securities:

None

E

i) "Disqualified Holder" shall mean any holder of shares of stock of the Corporation whose holding of such stock, either individually or when taken together with the holding of shares of stock of the Corporation by any other holders, has resulted or may result, in the judgment of the Board, in the loss of, or the failure to secure the reinstatement of, any license or franchise from any governmental agency held by the Corporation or any of its subsidiaries to conduct any portion of the business of the Corporation or any of its subsidiaries.

ii) "Fair Market Value" of a share of the Corporation's stock of any class or series shall mean the average Closing Price for such a share for each of the 45 most recent days on which shares of stock of such class or series shall have been traded preceding the day on which notice of redemption shall be given pursuant to paragraph (d) of this Article Twelfth; provided, however, that if shares of stock of such class or series are not traded on any securities exchange or in the over-the-counter market, "Fair Market Value" shall be determined by the Board in good faith. "Closing Price" on any day means the reported closing sales price or, in case no such sale takes place, the average of the reported closing bid and asked prices on the principal United States securities exchange registered under the Securities Exchange Act of 1934 on which such stock is listed, or, if such stock is not listed on any such exchange, the highest closing sales price or bid quotation for such stock on the National Association of Securities Dealers, Inc. Automated Quotation System or any system then in use, or if no such prices or quotations are available, the fair market value on the day in question as determined by the Board in good faith.

iii) "Redemption Date" shall mean the date fixed by the Board for the redemption of any shares of stock of the Corporation pursuant to this Article Twelfth.

iv) "Redemption Securities" shall mean any debt or equity securities of the Corporation, any of its subsidiaries or any other corporation, or any combination thereof, having such terms and conditions as shall be approved by the Board and which, together with any cash to be paid as part of the redemption price, in the opinion of any nationally recognized investment banking firm selected by the Board (which may be a firm which provides other investment banking, brokerage or other services to the Corporation), have a value, at the time notice of redemption is given pursuant to paragraph (d) of this Article Twelfth, at least equal to the price required to be paid pursuant to paragraph (a) of this Article Twelfth (assuming, in the case of Redemption Securities to be publicly traded, such Redemption Securities were fully distributed and subject only to normal trading activity)."

SECOND: That thereafter a meeting of the stockholders of the Corporation was duly called and held on December 23, 1994, upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware at which meeting the necessary number of shares as required by statute were voted in favor of the amendments.

THIRD: That said amendments were duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, USA Mobile Communications Holdings, Inc. has caused this Certificate to be signed by Mark A. Moore, a duly authorized officer of the Corporation, on this 28th day of December, 1994.


USA MOBILE COMMUNICATIONS
HOLDINGS, INC.

By 
Mark A. Moore
Secretary

State of Delaware
Office of the Secretary of State PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF DESIGNATION OF USA MOBILE COMMUNICATIONS HOLDINGS, INC., FILED IN THIS OFFICE ON THE TWENTY-EIGHTH DAY OF DECEMBER, A.D. 1994, AT 11:11 O'CLOCK A.M.




Edward J. Freel, Secretary of State

2283439 8100

981090547

AUTHENTICATION: 8962010

DATE: 03-10-98

**CERTIFICATE OF DESIGNATIONS,
PREFERENCES AND RIGHTS
OF
SERIES A PREFERRED STOCK
OF
USA MOBILE COMMUNICATIONS HOLDINGS, INC.**

Pursuant to Section 151 of the General
Corporation Law of the State of Delaware

The undersigned DOES HEREBY CERTIFY that the following resolution was duly adopted by the Board of Directors (the "Board of Directors") of USA Mobile Communications Holdings, Inc., a Delaware corporation (hereinafter called the "Corporation"), by unanimous written consent (duly executed by all directors and filed with the minutes of proceedings, of the Board) all in accordance with Section 141(f) of the Delaware General Corporation Law:

RESOLVED: That pursuant to the authority expressly granted to and vested in the Board of Directors by the Restated Certificate of Incorporation of the Corporation ("Certificate of Incorporation"), the Board of Directors authorizes the creation of the "Series A Preferred Stock" of the Corporation (the "Series A Preferred Stock") upon the terms and conditions set forth in Annex A to these resolutions and hereby fixes the designation, number of shares, voting powers and the other powers, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof as set forth in Annex A.

The undersigned does hereby further certify that set forth below is a true and correct copy of said Annex A, as adopted by the Board:

1. Designation and Amount. There shall be a series of Preferred Stock of the Corporation designated "Series A Preferred Stock", and the number of shares constituting such series shall be 31,874, each such share having a par value of \$.01. Such series is referred to herein as the "Series A Preferred Stock."

2. Dividends. Except as specifically provided herein, the holders of the Series A Preferred Stock shall not be entitled to receive any distributions, whether in cash, property or securities of the Corporation, and whether by dividend, liquidating distribution or otherwise.

3. Term. The Series A Preferred Stock shall not expire without further action by the Corporation.

4. Liquidation Preference. Upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, the holders of the Series A Preferred Stock shall be entitled, before any distribution or payment is made upon any common stock, \$.01 par value, of the Corporation ("Common Stock"), to be paid an amount equal to \$70 per share of such stock, and no more, before any amount shall be paid to the holders of any Common Stock of the Corporation. In the event that the assets of the Corporation are insufficient to permit full payment to the holders of the Series A Preferred Stock as herein provided, then the assets shall be distributed pro rata to the holders of the Series A Preferred Stock. A consolidation or merger of the Corporation with or into any other corporation, or the sale of all or substantially all of the assets of the Corporation shall not be deemed a liquidation, dissolution or winding up of the Corporation within the meaning of this paragraph 4.

5. Redemption. The Corporation shall have the right, at its option, to redeem all or any portion of the outstanding Series A Preferred Stock, pro rata among the holders of the then outstanding Series A Preferred Stock, at the Redemption Price. "Redemption Price" shall mean, at any date, an amount equal to sum of (A) \$70 for each share of the Series A Preferred Stock to be redeemed on such date plus (B) an amount equal to the accretion in value of \$70 from the date of issuance of the preferred stock, par value \$70, of Premiere Page, Inc. ("Premiere Page Preferred Stock") converted into such Series A Preferred Stock to the date of such redemption, calculated at the rate of (x) 15.25% per annum for periods from the date of issuance of such Premiere Page Preferred Stock to January 30, 1995 and (y) 10% per annum for periods from January 31, 1995 to January 30, 1997. If, for any reason, any outstanding Series A Preferred Stock shall not

have been redeemed by January 30, 1997, the additional accretion in value of such Series A Preferred Stock for periods from January 31, 1997 through the date of redemption shall be calculated at the rate of 15.25% per annum.

6. Voting Rights. Except as otherwise provided by law, the holders of Series A Preferred Stock shall have one vote per share on all matters, voting together with the holders of the Corporation's Common Stock.

7. Restrictions on Transfer. No holder of Series A Preferred Stock shall sell, assign, transfer, pledge, hypothecate or otherwise convey in any manner whatsoever any Series A Preferred Stock except to another holder of Series A Preferred Stock (and provided such proposed transferee is an individual) without the prior written consent of the Corporation, unless all such Series A Preferred Stock is first offered for sale to the Corporation, upon the following terms and conditions;

(a) The selling stockholder shall offer to the Corporation by written notice (the "Sale Notice") the Series A Preferred Stock, which Sale Notice shall state the name and address of the proposed purchaser (the "Proposed Transferee"), the number of shares of Series A Preferred Stock proposed to be sold (the "Offered Shares"), the proposed purchase price (the "Proposed Price") and terms and conditions of the proposed sale. For a period of 30 days after receipt by the Corporation of the Sale Notice, the Corporation shall have the option to purchase all or a portion of the Offered Shares for the Proposed Price and on the same terms and conditions as are specified in the Sale Notice by delivering written notice to such Selling Stockholder (the "Purchase Notice").

(b) In the event that the Corporation does not elect to purchase all of the Offered Shares (the "Available Shares"), the selling stockholder may sell the Available Shares to the Proposed Transferee for a period of 45 days after the delivery of the Purchase Notice at a price no less than the Proposed Price and on terms and conditions no more favorable than those specified in the Sale Notice; provided, however, that the Proposed Transferee must agree to be bound by all the terms and covenants

contained herein pertaining to the Series A Preferred Stock.

8. Status of Acquired Shares. Shares of Series A Preferred Stock redeemed by the Corporation or otherwise acquired by the Corporation will be restored to the status of authorized but unissued shares of Preferred Stock, without designation as to class, and may thereafter be issued, but not as shares of Series A Preferred Stock.

9. Severability of Provisions. Whenever possible, each provision hereof shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating or otherwise adversely affecting the remaining provisions hereof. If a court of competent jurisdiction should determine that a provision hereof would be valid or enforceable if a period of time were extended or shortened or a particular percentage were increased or decreased, then such court may make such change as shall be necessary to render the provision in question effective and valid under applicable law.

IN WITNESS WHEREOF, USA Mobile Communications Holdings, Inc. has caused this Certificate to be signed by Mark A. Moore, a duly authorized officer of the Corporation, on this 26 day of December, 1994.

USA MOBILE COMMUNICATIONS
HOLDINGS, INC.

By: 
Name: Mark A. Moore
Title: Secretary

State of Delaware
Office of the Secretary of State PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE RESTATED CERTIFICATE OF "USA MOBILE COMMUNICATIONS HOLDINGS, INC." FILED IN THIS OFFICE ON THE NINTH DAY OF FEBRUARY, A.D. 1994, AT 9 O'CLOCK A.M.



Edward J. Freel, Secretary of State

2283439 8100

981090547

AUTHENTICATION: 8962008

DATE: 03-10-98

RESTATED CERTIFICATE OF INCORPORATION
OF
USA MOBILE COMMUNICATIONS HOLDINGS, INC.

Pursuant to Section 245 of the
General Corporation Law of Delaware

USA Mobile Communications Holdings, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby certify as follows.

1. The name of Corporation is USA Mobile Communications Holdings, Inc.

2. The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware on December 30, 1991. The name under which the Corporation was initially incorporated was USA Mobile Communications Holdings, Inc.

3. This Restated Certificate of Incorporation was duly adopted in accordance with the provisions of Sections 242 and 245 of the General Corporation Law, as amended, of the State of Delaware (the "GCL") by the Board of Directors and by the written consent of the stockholders of the Corporation in accordance with Section 228 of the GCL.

4. The Certificate of Incorporation of the Corporation, is hereby further amended and restated to read in its entirety as follows:

FIRST: The name of the Corporation is USA Mobile Communications Holdings, Inc. (hereinafter, the "Corporation").

SECOND: The address of the Corporation's registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, County of New Castle, Delaware 19801. The name of the Corporation's registered agent as such address is The Corporation Trust Company.

THIRD: The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law, as amended of the State of Delaware (the "GCL"), as set forth in Title 8 of the Delaware Code.

FOURTH:

(a) The aggregate number of shares and the par value of all classes of capital stock which the Corporation shall have the authority to issue are as follows:

Common Stock	- 30,000,000 shares, par value \$0.01 par share (the "Common Stock"); and
Non-Voting Common Stock	- 5,000,000 shares, par value \$0.01 per share (the "Non-Voting Common Stock"); and
Preferred Stock	- 5,000,000 shares, par value \$0.01 par share the "Preferred Stock")

(b) (i) Effective upon filing of this Restated Certificate of Incorporation with the Secretary of State of the State of Delaware (the "Effective Time"), without any further action on the part of the Corporation or any other person, except as provided in subparagraph (b)(ii) of this Article Fourth, each share of common stock, class A stock and class B stock issued and outstanding immediately prior to the Effective Time, shall be converted into and become 5335.0647 shares of Common Stock, so as to effect a 5335.0647-for-one split and conversion of the issued and outstanding shares of common stock, class A stock and class B stock.

(ii) Notwithstanding anything to the contrary set forth in subparagraph (b)(i) of this Article Fourth, at the Effective Time, without any further action on the part of the Corporation or any other person, the number of shares of class A and class B stock issued and outstanding immediately prior to the Effective Time set forth opposite the name of the respective holder thereof shall not be converted into Common Stock, but instead shall be converted into and become the number of shares of Non-Voting Common Stock set forth below opposite the name of the respective holder thereof so as to effect a 5335.0647-for-one split of such shares of class A and class B stock not so converted into Non-Voting Common Stock:

<u>Holder</u>	<u>Number of Shares of Class A Stock</u>	<u>Number of Shares of Class B Stock</u>	<u>Number of Shares of Non-Voting Common Stock</u>
Prudential Leveraged- Asset Trust - 1990A	307.7667	--	1,641,955
Heller Financial, Inc. ("Heller")	--	122.7642	654,955
First Chicago Investment Corporation ("First Chicago")	--	97.7665	521,591

(c) The powers, preferences and rights of the shares of Common Stock, Non Voting Common Stock and Preferred Stock, and the qualifications, limitations and restrictions thereof are as follows:

(i) Common Stock and Non-Voting Common Stock

Subject to the provisions of any series of Preferred Stock which may at the time be outstanding, the holders of Common Stock and Non-Voting Common Stock shall be entitled to receive, when and as declared from time to time by the Board of Directors (the "Board") out of any funds legally available for the purpose, such dividends as may be declared from time to time by the Board. When and as dividends are declared thereon, whether payable in cash, property or securities of the Corporation, each holder of Common Stock and Non-Voting Common Stock will be entitled to participate in such dividends ratably on a per share basis. In the event of any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, or upon the distribution of its assets, after the payment in full or the setting apart for payment of such preferential amounts, if any, to which the holders of Preferred Stock at the time outstanding shall be entitled, the remaining assets of the Corporation available for payment and distribution to stockholders shall, subject to any participating or similar rights of any series of Preferred Stock at the time outstanding, be distributed ratably among the holders of Common Stock and Non-Voting Common Stock at the time outstanding. Except as otherwise provided in subparagraph (c)(ii) of this Article Fourth, all shares of Common Stock and Non-Voting Common Stock shall have equal noncumulative voting rights, distribution, liquidation and other rights, and shall have no preference, conversion, exchange, preemptive or other rights. Except as otherwise required by the GCL, and except as otherwise provided in subparagraph (c)(ii) of this Article Fourth, on all matters to be voted on by the Corporation's stockholders, the Common Stock and Non-Voting Common Stock will be entitled to one vote per share. The Common Stock and Non-Voting Common Stock will, except as expressly required under the GCL and except as limited by subparagraph (c)(ii) hereof, vote as a single combined class on all matters to be voted on by the Corporation's stockholders.

(ii) Certain Rights of the Non-Voting Common Stock.

(A) Except as expressly provided herein and as otherwise provided by the GCL, the holders of the Non-Voting Common Stock will have no voting rights.

(B) The holders of the Non-Voting Common Stock shall be entitled to one vote per share with respect to the following matters when any of such matters are voted upon by the Corporation's other stockholders:

(a) any amendment or modification to the Certificate of Incorporation of the Corporation;

(b) any liquidation, dissolution, winding-up, recapitalization or reorganization of the Corporation;

(c) any filing by the Corporation, or any consent by answer or otherwise to the filing against the Corporation, of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or insolvency under the laws of any jurisdiction, or the making by the Corporation of any assignment for the benefit of its creditors or any consent by the Corporation to the appointment of a custodian, receiver, trustee or other officer for itself or for any substantial part of its assets;

(d) any merger of the Corporation with or into, or consolidation of the Corporation with, any other corporation or other entity, or any acquisition by the Corporation of all or substantially all of the assets or capital stock of any other corporation or other entity; or

(e) any sale, lease, assignment, transfer, exchange or other disposition of all or substantially all of the property and assets of the Corporation.

(iii) Conversion of Non-Voting Common Stock.

(A) Each recordholder of Non-Voting Common Stock other than any Prudential Entity shall be entitled to convert any or all of such holder's shares of Non-Voting Common Stock into one fully paid and nonassessable share of Common Stock per share of Non-Voting Common Stock so converted at any time except to the extent such conversion is prohibited by the Bank Holding Company Act of 1956 and regulations issued thereunder as either may be amended from time to time or under any successor statute or regulation (collectively, the "Bank Holding Company Act").

(B) Any Prudential Entity (as defined below) which is a record holder of Non-Voting Common Stock shall be entitled to convert any or all of such holder's shares of Non-Voting Common Stock into one fully paid and nonassessable share of Common Stock per share of Non-Voting Common Stock so converted at any time after any of the following events occur.

(i) any sale, lease, assignment, transfer, exchange or other disposition of all or substantially all of the property and assets of the Corporation (including a merger of the Corporation with or into, or consolidation of the Corporation with, any other corporation or other entity which constitutes in effect a sale of all or substantially all of the property and assets of the Corporation);

(ii) the acquisition by a person or group (as such term is used in Rule 13d-5(b)(1) of the regulations promulgated under the Exchange Act of 1934, as amended (the "Exchange Act")) of beneficial ownership (as defined in Rule 13d-3 of the regulations under the Exchange Act) of more than fifty percent (50%) of the outstanding shares of Common Stock;

(iii) the total number of shares of Common Stock and Non-Voting Common Stock owned by all Prudential Entities (as defined herein) is less than five percent (5%) of the aggregate of the total number of outstanding shares of Common Stock and the total number of outstanding shares of Non-Voting Common Stock (determined on a fully diluted basis);

(iv) the Corporation defaults in the payment of the principal of or interest on any obligation for money borrowed (or any capitalized lease obligation, any obligation under conditional sale or other title retention agreement or any obligation issued or assumed as full or partial payment for property whether or not secured by purchase money mortgage or any obligation under notes payable or drafts accepted representing extensions of credit) beyond any period of grace provided with respect thereto, or the Corporation fails to perform or observe any other agreement, term or condition contained in any agreement under which any such obligation is created (or if any other event thereunder or under any such agreement shall occur and be continuing) and the effect of such failure or other event is to cause, or to permit the holder or holders of such obligation (or a trustee on behalf of such holder or holders) to cause, such obligation to become due prior to its stated maturity, provided that the aggregate amount of all obligations as to which such a payment default shall occur or such failure or other event causing or permitting acceleration shall occur exceeds \$1,000,000, except in either case where (1) the holder of such obligation is a Prudential Entity, or (2) such default or failure has been waived or cured prior to conversion;

(v) the Corporation defaults in any payment of principal of, of interest or prepayment premium on, any obligation for money borrowed from any Prudential Entity beyond any period of grace provided with respect thereto;

(vi) the resignation or removal of any member of the Board of Directors of the Corporation if, after giving effect thereto, the aggregate number of members of the Board of Directors of the Corporation who have resigned or been removed as directors of the Corporation during the immediately preceding period of twelve months exceeds 30% of the number of directors constituting the entire Board of Directors of the Corporation on the first day of such period of twelve months; or

(vii) at the end of any fiscal quarter of the Corporation if EBITDA for the twelve-month period ending with such fiscal quarter is less than eighty percent (80%) of EBITDA for the twelve-month period ending with the corresponding fiscal quarter in the immediately preceding fiscal year.

Notwithstanding the foregoing, the right of any Prudential Entity which is a holder of Non-Voting Common Stock to convert any or all shares of Non-Voting Common Stock into shares of Common Stock as a result of the occurrence of any event described in clauses (i) through (vii) of this subparagraph (iii)(B) shall lapse (1) if not exercised within a period of sixty days after receipt by such holder of written notice of the occurrence of such event, or (2) upon such holder's delivery to the Corporation of written notice that it has waived its right to so convert based upon such transaction or event. In the event that any Prudential Entity which is a holder of Non-Voting Common Stock elects not to

exercise its right to convert any or all shares of Non-Voting Common Stock into shares of Common Stock as the result of the occurrence of any event described in clauses (i) through (vii) of this subparagraph (iii)(B), upon the subsequent occurrence of any such event such holder shall have the right then to convert as and to the extent described in this subparagraph (iii)(B).

(C) Upon or after the transfer on the stock records of the Corporation of any shares of Non-Voting Common Stock to a person or entity other than a Prudential Entity, then except as otherwise prohibited by subparagraph (iii)(A), the transferee or transferor of the shares of Non-Voting Common Stock so transferred is entitled to convert any or all of such shares of Non-Voting Common Stock into one fully paid and nonassessable share of Common Stock per share of Non-Voting Common Stock so converted.

(D) (i) Each conversion of shares of Non-Voting Common Stock into shares of Common Stock will be effected by the surrender of the certificate or certificates representing the shares to be converted, duly endorsed, at the principal office of the Corporation or at the office of any transfer agent for the Common Stock at any time during normal business hours, together with a written notice by the holder of such Non-Voting Common Stock stating that such holder desires to convert the shares, or a stated number of the shares, of such Non-Voting Common Stock represented by such certificate or certificates into shares of Common Stock. Such conversion will be deemed to have been effected as of the close of business on the date on which such certificate or certificates have been surrendered and such notice has been received, or at such earlier time on such date as shall be specified in such notice, and at such time the rights of the holder of the converted Non-Voting Common Stock will cease and the person or persons in whose name or names the certificate or certificates for shares of Common Stock are to be issued upon such conversion will be deemed to have become the holder or holders of record of the shares of Common Stock represented thereby.

(ii) Promptly after such surrender and the receipt of such written notice, the Corporation will issue and deliver in accordance with the surrendering holder's instructions (a) the certificate or certificates for the Common Stock issuable upon such conversion and (b) a certificate representing the Non-Voting Common Stock which was represented by the certificate delivered but which was not converted.

(c) The issuance of certificates for Common Stock upon conversion of Non-Voting Common Stock will be made without charge to the holders of such shares for an issuance tax in respect thereof or other cost incurred by the corporation in connection with such conversion and the related issuance of Common Stock.

(d) The Corporation will not close its books against the transfer of shares of Common Stock in any manner which would interfere with the timely conversion of any shares of Non-Voting Common Stock.

As used in this subparagraph (iii):

(a) "EBITDA" for any period shall mean consolidated net income of the Corporation for such period (excluding extraordinary gains or losses from sales, exchanges and other dispositions of property not in the ordinary course of business) before all income taxes are accrued, plus the sum of (a) all interest paid or accrued during such period, (b) all depreciation and amortization of assets during such period, and (c) all other non-cash charges deducted from net income for such period, all as determined in accordance with generally accepted accounting principles consistently applied; and

(b) "Prudential Entities" shall mean The Prudential Insurance Company of America or any person, entity or fund controlling, controlled by or under common control with The Prudential Insurance Company of America.

(iv) Conversion of Common Stock by Certain Holders into Non-Voting Common Stock

Any of Heller, First Chicago, any Prudential Entity or any other person or entity subject to the Bank Holding Company Act may, at any time, exchange with the Corporation any or all of such holder's shares of Common Stock for a like number of fully paid and nonassessable shares of Non-Voting Common Stock. Such an exchange shall be effected by tendering such shares to the Corporation and following the notice and delivery procedures set forth in Article Fourth hereof for the conversion of shares of Non-Voting Common Stock into Common Stock.

(v) Preferred Stock

The Board is hereby expressly authorized at any time, and from time to time, to provide for the issuance of Preferred Stock upon such terms and conditions and pursuant to such agreements as the Board may determine, such Preferred Stock to be in one or more classes or series, each of which classes or series shall have a distinctive designation or title, and each of which shall have such voting powers, full or limited, or no voting powers, and such relative rights, preference, powers, qualifications, limitations and restrictions as shall be stated and expressed in the resolution or resolutions providing for issuance thereof adopted by the Board and as are not stated and expressed in this Restated Certificate of Incorporation, including (without limiting the generality thereof) the following as to each such class or series:

(A) the designation of such class or series:

(B) the dividends, if any, payable with respect to such class or series, the rates or bases for determining such dividends, any conditions and dates upon which such dividends shall be payable, the preferences, if any, of such dividends over, or the relation of such dividends to, the dividends payable on any other class or series of capital stock of the Corporation, whether such dividends shall be noncumulative or cumulative, and if cumulative, the date or dates from which such dividends shall be cumulative;

(C) whether Preferred Stock of such class or series shall be redeemable at the option of the Corporation or the holder or both or upon the happening of a specified event and, if redeemable, whether for cash, property or rights, including securities of the Corporation, the times, prices or rates and any adjustments and other terms and conditions of such redemption;

(D) the terms and amount of any sinking, retirement or purchase fund provided for the purchase or redemption of Preferred Stock of such class or series;

(E) whether or not Preferred Stock of such class or series shall be convertible into or exchangeable for capital stock or another class of series or other securities of the Corporation, at the option of the Corporation or of the holder or both or upon the happening of a specified event and, if provision is made for such conversion or exchange, the times, prices, rates, adjustments and any other terms and conditions thereof;

(F) the extent, if any, to which the holders of Preferred Stock of such class or series shall be entitled to vote with respect to the election of directors of the Corporation or otherwise, including, without limitation, the extent, if any, to which such holders shall be entitled, voting as a class or series, to elect one or more directors upon the happening a specified event or otherwise;

(G) the restrictions, if any, on the issue or reissue of shares of Preferred Stock of such class or series or any other class or series;

(H) the extent, if any, to which the holders of Preferred Stock of such class or series shall be entitled to preemptive rights; and

(I) the right of the holders of Preferred Stock of such class or series upon the liquidation, dissolution or winding up of the corporation or any distribution of its assets.

(d) The Corporation or its transfer agent will keep at its principal office (or such other place as the Corporation reasonably designates) a register for the registration and transfer of shares of its capital stock. Upon surrender of any certificate representing shares of capital stock as such place, the Corporation will, at the request of the registered holder of such certificate, execute and deliver a new certificate or certificates in exchange therefore representing in the aggregate the number of shares represented by the surrendered certificate, and the Corporation forthwith will cancel such surrendered certificate. Each such new certificate will be registered in such name and will represent such number of shares as is requested by the holder of the surrendered certificate and will be substantially identical in form to the surrendered certificate. The issuance of new certificates will be made without charge to the

holders of the surrendered certificates for any issuance tax in respect thereof or other cost incurred by the Corporation in connection with such issuance.

(e) Upon receipt of evidence reasonably satisfactory to the Corporation of the ownership and the loss, theft, destruction or mutilation of any certificate evidencing one or more shares of its capital stock, and in the case of any such loss, theft or destruction, upon receipt of indemnity reasonably satisfactory to the Corporation, or, in the case of any such mutilation upon surrender of such certificate, the Corporation will (at its expense) execute and deliver in lieu of the such certificate a new certificate of like kind representing the number of shares represented by such lost, stolen, destroyed or mutilated certificate and dated the date of such lost, stolen, destroyed or mutilated certificate.

(f) The Corporation shall at all times reserve and keep available out of its authorized but unissued shares of Common Stock and Non-Voting Common Stock, solely for the purpose of issuance upon the conversion of Non-Voting Common Stock into Common Stock or Common Stock into Non-Voting Common Stock, as the case may be in accordance with the terms hereof, such number of shares of Common Stock issuable upon the conversion of all outstanding Non-Voting Common Stock and such number of shares of Non-Voting Common Stock issuable upon the conversion of all outstanding Common Stock held by Heller, First Chicago, any Prudential Entity or any person subject to the Bank Holding Company Act. All shares of Common Stock and Non-Voting Common Stock which are so issuable shall, when issued, be duly and validly issued, fully paid and nonassessable.

FIFTH: The By-Laws of the Corporation may be altered, amended or repealed by the vote of a majority of the directors in office or by the vote of holders of a majority of the outstanding stock entitled to vote thereon.

SIXTH: Whenever a compromise or arrangement is proposed between this Corporation and its creditors or any class of them and/or between this Corporation and its stockholders or any class of them, any court of equitable jurisdictions within the State of Delaware may, on the application in a summary way of this Corporation or of any creditor or stockholder thereof or on the application of any receiver or receivers appointed for this Corporation under the provisions of Section 291 of the GCL or on the application of trustees in dissolution or of any receiver or receivers appointed by this Corporation under the provisions of Section 279 of the GCL order a meeting of the creditors or class of creditors, and/or of the stockholders or class of stockholder of this Corporation, as the case may be, to be summoned in such manner as the said court directs. If a majority in number representing three-fourths in value of the creditors or class of creditors, and/or of the stockholders or class or stockholders of this Corporation, as the case may be, agreed to any compromise or arrangement and to any reorganization of this Corporation as a consequence of such compromise or arrangement, the said compromise or arrangement and the said reorganization shall, if sanctioned by the court to which the said application has been made, be binding on all the creditors or class of creditors, and/or on all the stockholders, or class of stockholders of this Corporation, as the case may be, and also on this Corporation.

SEVENTH: A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director for any act or omission; provided, however, that the foregoing shall not eliminate or limit the liability of a director (i) for any breach of the director's duty or loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct for a knowing violation of law, (iii) under Section 174 of the GCL, or (iv) for any transaction from which the director derived an improper personal benefit. If the GCL is hereafter amended to permit further elimination or limitation of the personal liability of directors, then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the GCL as so amended. Any repeal or modification of this Article SEVENTH by the stockholders of the Corporation or otherwise shall not apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any acts or omissions of such director occurring prior to such amendment or repeal.

EIGHTH: (a) The Corporation shall, to the fullest extent permitted by Section 145 of the GCL, indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Corporation) against any and all of the expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually or reasonably incurred by such person by reason of having been an officer, director, employee or agent at the request of the Corporation, any subsidiary of the Corporation or of any other corporation, partnership, joint venture, trust or other enterprise for which any and all persons who acted as officer, director, employee or agent at the request of the Corporation, if such person acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceeding, was not at the time of such action or proceeding a director, officer, employee or agent of the Corporation. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the Corporation, and, with respect to any criminal action or proceedings, had reasonable cause to believe that his conduct was unlawful.

(b) The Corporation may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Corporation to procure a judgment in its favor by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if such person acted in good faith and in a manner such person reasonably believed to be in or not opposed to the best interests of the Corporation and except that no indemnification shall be made in